



Agenda Date: 11/13/03
Agenda Item:1A

STATE OF NEW JERSEY
Board of Public Utilities
Two Gateway Center
Newark, NJ 07102
www.bpu.state.nj.us

OFFICE OF CLEAN ENERGY

IN THE MATTER OF THE NEW JERSEY CLEAN
ENERGY PROGRAM – 2004 PROGRAMS AND
BUDGETS

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) ORDER
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DOCKET NO. EO02120955

(SERVICE LIST ATTACHED)

BY THE BOARD:

On February 9, 1999, the Electric Discount and Energy Competition Act, N.J.S.A. 48:3-49 et seq., (EDECA or Act) was signed into law. The Act established requirements to advance energy efficiency and renewable energy in New Jersey through the societal benefits charge (SBC) at N.J.S.A. 48:3-60a(3).

N.J.S.A. 48:3-60a(3), directed the Board to initiate a comprehensive resource analysis (CRA) of energy programs and to determine the appropriate level of funding and the appropriate energy efficiency and Class I renewable energy programs (jointly the Clean Energy Program) to be funded by the SBC. By Order dated March 9, 2001, BPU Docket Nos. EX99050347, EO99050348, EO99050349, EO99050350, EO99050351, GO99050352, GO99050353, GO99050354 (March 9, 2001 Order), the Board established Clean Energy Program funding levels for years 2001 through 2003. The Board set the statewide funding levels to be \$115 million in 2001, \$119.326 million in 2002 and \$124.126 million in 2003. The Board's March 9, 2001 Order allocated these statewide funding levels to each utility. (Order at page 66)

In addition, the Board stated that "in recognition of the delay in completing the Comprehensive Resource Analysis, the Board finds that \$15 million shall be added to funding for the fourth year, as will be determined to be appropriate by the Board after the lifting of the utilities' rate caps in August 2003." (Order at page 7) The Board also stated that "Although the Board is only specifying the funding levels for the first three years, the fourth year funding level will be established after the rate cap is lifted...Additionally, the Board recognizes the delay in completing the CRA Proceeding and will apply \$15 million that might have been spent in 2000,

to the fourth year funding, over and above the fourth year's funding, to be determined by the Board." (Order at page 64)

Based on the Act, the Board in its March 9, 2001 Order allocated the funding between energy efficiency and renewable energy at 75 percent/25 percent respectively. The goals, set forth in EDECA, were for the CRA to establish programs that had environmental benefits over and above those of existing standard offer programs, make energy service more affordable for low-income customers and eliminate subsidies for programs that can be delivered into the market without SBC funding.

In its January 22, 2003 Order, Docket Number EO02120955 the Board¹ established the New Jersey Clean Energy Council as advisors to the Board for planning assistance for the administration of the programs. As set forth in the January 22, 2003, Order, the Clean Energy Council is responsible for working with Board Staff to make recommendations and assessments of the components of the New Jersey Clean Energy Program, programmatic effectiveness, the goals and objectives on a program-by-program basis, incentive levels, program delivery, consumer satisfaction, and administrative efficiency. The Clean Energy Council was established in March 2003 and initiated meetings on April 11, 2003.

On August 1, 2003, the legislatively mandated electric utility rate cap was lifted. At that time, the Board issued Summary Orders concerning the rate cases filed by each of the four New Jersey electric utilities and set new rates that became effective on August 1, 2003.

The Clean Energy Council has met numerous times between the initial meeting and the most recent October 28, 2003 meeting. The Clean Energy Council has formed three Committees (Energy Efficiency, Renewable Energy and Outreach and Education) and the Committees have formed Sub-Committees and Work Groups to assist in accomplishing its tasks as directed by the Board and Staff. Two Clean Energy Council members co-chair each Committee and all members serve on at least one of the Committees. The various Committees, Sub-Committees and Work Groups have met several times in between Clean Energy Council meetings. The Council and Committees have developed proposed goals and objectives for the energy efficiency and renewable energy programs and the overall and program budgets for 2004.

After much deliberation, the Subcommittees and Committee members developed by consensus the recommendations that were endorsed by the majority of Clean Energy Council members. On October 28, 2003, the Clean Energy Council ("Council") met to finalize its recommendations to the Board concerning proposed programs and budgets for 2004.

The Council approved for recommendation to the Board²:

- A statewide funding level for 2004 of \$124.126M equal to the 2003 level set by the Board's March 9, 2001 Order;
- \$15 million be added to the 2004 funding level of \$124.126 million in accordance with the Board's March 9, 2001 decision;
- The 75%/25% funding allocation between Energy Efficiency & Renewable Energy, respectively be maintained, consistent with the March 9, 2001 Order, and;

¹ Commissioner Hughes abstained on the vote to create the New Jersey Clean Energy Council at the December 18, 2002 Agenda meeting in Docket No. EX99050347 et al.

² With abstention by Fred Lynk of PSE&G regarding the Energy Efficiency budget and a "no" vote by him regarding the Renewable Energy budget.

- The individual programs in Attachment A³ and the budgets noted therein in the column entitled "Program Budgets at \$139 M."
- Initiation of a proceeding to consider the equalization of the statewide funding levels.

The major recommendations of the Clean Energy Council are outlined in Attachment A to this Order which includes the recommendations for Clean Energy programs and budgets for 2004, based on meetings held on October 7, 2003 and October 28, 2003 with the Clean Energy Council and a public meeting on October 20, 2003.

Discussion and Findings

Provisions were established in the Act to promote and advance energy efficiency and renewable energy development in New Jersey. The New Jersey Clean Energy Council recognized the need to develop and implement additional programs and provisions to advance energy efficiency and renewable energy if the goals and objectives of the Act and the goals and objectives of the Clean Energy Program, developed by the Council, are to be achieved.

Although EDECA anticipated four years of programs and funding to result from the first CRA proceeding, the Board chose to await the results of the end of the electric utilities' rate freeze period prior to deciding the appropriate statewide funding level for the 2004 energy efficiency and renewable energy programs. With the exception of one of the utility representatives to the Council, all other members of the Council voted to recommend to the Board a 2004 budget of \$139 million (rounded to the nearest million). The \$139 million is derived from a continuation of the Board approved 2003 funding level of \$124.126 million plus the additional \$15 million. The utility representative's objection was based upon the proposed budget including approximately \$27.8 million that is not anticipated to be spent in 2004 but is expected to be reserved for future year's projects. The utility representative objected to increasing funding levels and potentially rates in 2004 when the funding would not be required until a future year.

The Board supports the recommendations of the Council however, believes that pursuant to its March 9, 2001 Order, determination of a final statewide funding level for 2004 requires a review which considers the lifting of the electric utilities' rate caps in August 2003. Given that the rate caps have been lifted and that the Board has determined the level of the rate increases that were required subsequent to the lifting of the rate caps, the Board is now in a position to determine the Clean Energy Program funding level for 2004. The Board has not yet set a funding level for 2004. Prior to setting a final funding level for 2004, the Board will solicit comments on a proposed 2004 funding level described below. The Board recognizes, however, the importance of the Clean Energy Programs, and the problems that would be associated with a disruption of funding of those programs in the beginning of 2004. Therefore, the Board HEREBY ADOPTS a 2004 funding level of \$124.126 million, with each utility's (the seven New Jersey electric and gas utilities that were a party to the March 9, 2001 Order) funding requirement being equal to the amount set for 2003 in the Board's March 9, 2001 Order at page 67, on an interim basis and will solicit written comments from interested parties concerning whether the funding level should be adjusted further in light of the lifting of the electric utilities' rate caps in August 2003.

The Board HEREBY ORDERS interested parties to file written comments within fifteen days of issuance of this order, limited exclusively to the issue of the appropriateness of maintaining the 2003 funding level with the additional funding of \$15 million as needed and as required by the

³ This has been slightly modified since the Council's vote to correct an error in the allocation of the \$15 million all to energy efficiency and to deduct administrative costs.

March 9, 2001 Order. Comments should reference the caption and docket number I/M/O Appropriate Funding Level for the 2004 Clean Energy Program, BPU Docket No. EX03110945.

This filing should also include comments as to why the funding level for 2004 should be more, less or the same as the 2003 funding level. Fifteen days after the parties submit initial comments, any interested party shall be permitted to submit rebuttal comments. Within fifteen days of the rebuttal comments being submitted, the Board will conduct a legislative hearing wherein interested parties may present comments concerning the 2004 funding level. At the close of that hearing, the record will be closed and the Board, with the advice of the Clean Energy Council and the Office of Clean Energy, will set a final 2004 funding level. The proceeding will concern only the overall 2004 funding level, and the Board will not consider any comments concerning funding allocation among the utilities. A separate proceeding concerning the allocation of the 2004 funding will be conducted after the conclusion of the funding level proceeding.

The Board DIRECTS the Office of Clean Energy to establish the periodic fund transfer amounts to the fiscal agent to be made by the seven New Jersey electric and natural gas utilities in recognition of the potential rate impact and after consideration of the anticipated cash disbursements to be made by the Fiscal Agent during the period. Subsequent to the determination of the final funding level for 2004, the additional \$15 million will be budgeted, but not collected unless needed to fully fund program commitments for 2004 projects.

The Board HEREBY REAFFIRMS its March 09, 2001 Board Order requiring that an additional \$15 million be added to the 2004 level upon determination of that level. The Board anticipates the establishment of a Fiscal Agent in January 2004 that would hold program funds. The additional \$15 million would be collected only if the Fiscal Agent has insufficient funds, on an overall basis, to meet anticipated expenditures. Any additional funding over the initial funding level set by the Board above, if required, would be allocated to the utilities in an amount proportional to each utilities share of the 2003 funding level set out on page 67 of the Board's March 9, 2001 Order or pursuant to any new allocation set by the Board as discussed below.

Pursuant to the March 9, 2001 Order, the Board's rationale for imposing an additional \$15 million to the 2004 funding level was to recognize the delay in completing the CRA proceeding. The \$15 million was to represent monies that might have been spent in 2000. See March 9, 2001 Order at 64. To maintain consistency with this prior determination, namely to recognize the desire to have money that might have been spent in 2000 added to a subsequent year's funding level, should it be determined that the \$15 million is not needed for 2004, the Board HEREBY ORDERS the \$15 million be added to the funding level for 2005.

The Board AUTHORIZES the Office of Clean Energy to reallocate funding consistent with the recommendation of the Council with regard to the use of the \$27 million presently shown as budgeted for "carryover for future projects." This carryover is actually reserved for 2004 projects and other year committed projects.

Pursuant to N.J.S.A. 48:2-23, as the Clean Energy Program transitions from utility to BPU administration, it is anticipated that the programs will be administered without regard to utility service territories. In anticipation of this, in the Board's September 11, 2003 Order, Staff was authorized to initiate a proceeding in the Fall of 2003 to address the rate equity issue with respect to the allocation among the utilities of the 2004 statewide funding of the Clean Energy Program. This proceeding was also to include the issue of lost revenue recovery not addressed in the rate proceedings concluded August 1, 2003.

The Board concludes that equalizing the level of funding contributed by utility customers for the 2004 Clean Energy Program should be considered further. Therefore, the Board HEREBY DIRECTS the Office of Clean Energy to submit to the Board a proposed procedural schedule for consideration of this issue. It is the Board's intent that this proceeding, limited exclusively to the allocation among the utilities of the 2004 statewide funding of the Clean Energy Program, be concluded by the end of March 2004, and that any revisions to the current allocation would be applicable subsequent to the issuance of an Order by the Board. The Board HEREBY ORDERS the utilities to file initial statements documenting their respective positions on these issues within thirty days of the issuance of this order. The initial statements should reference the caption and docket number I/M/O Appropriate Utility Funding Allocation for the 2004 Clean Energy Program, BPU Docket No. EX03110946. The Board HEREBY ORDERS the allocation of the statewide funding among the utilities to continue to be based on the 2003 formula in the March 9, 2001 Order until a proceeding to address leveled funding among the utilities is concluded.

The Board HEREBY DIRECTS the Office of Clean Energy staff to widely circulate this Order to all interested persons including parties to the initial proceeding in this matter, the utilities, the Ratepayer Advocate and to all members of the Clean Energy Council.

Additionally, EDECA requires the Board to initiate a proceeding to determine the programs and funding levels for years five through eight or for the years 2005 through 2008. The Board anticipates initiating such a proceeding by March 2004.

DATED: 12/22/03

BOARD OF PUBLIC UTILITIES
BY:

(SIGNED)

JEANNE M. FOX
PRESIDENT

(SIGNED)

FREDERICK F. BUTLER
COMMISSIONER

(SIGNED)

CAROL J. MURPHY
COMMISSIONER

(SIGNED)

CONNIE O. HUGHES
COMMISSIONER

(SIGNED)

JACK ALTER
COMMISSIONER

RECUSAL STATEMENT
OF
COMMISSIONER CONNIE O. HUGHES

RE: NEW JERSEY CLEAN ENERGY PROGRAM, 2004 PROGRAMS AND BUDGETS
(DOCKET NUMBER EOO2120955)

At the November 13, 2003 Board meeting, I joined with my colleagues in discussing and voting on the New Jersey Clean Energy Program, 2004 Programs and Budgets.

To avoid impropriety or the appearance of impropriety and the possibility of a conflict of interest brought about because of my husband's position as Dean of the Edward J. Bloustein School of Planning and Public Policy, I had earlier recused myself from any action taken by the Office of Clean Energy which specifically relates to or in any way may be perceived to implicate funding allotments for the Bloustein School.

In addition, I made a motion that was unanimously approved to separate funding for the Edward J. Bloustein School of Planning and Public Policy. In light of my earlier recusal, I, again abstained from the vote taken regarding the approval of funding for the Bloustein School of Planning and Public Policy in order to avoid impropriety or the appearance of impropriety and the possibility of a conflict of interest for reasons as previously mentioned above.

ATTEST:

(SIGNED)

CONNIE O. HUGHES
COMMISSIONER

(SIGNED)

KRISTI IZZO
SECRETARY

ATTACHMENT A

Proposed Budgets for 2004 Energy Efficiency Programs⁴ EE Program Budget at \$124 M EE Program Budget at \$139 M

Programs	EE Committee Budget Recommendation (000,000)	Program Budget at \$124	Program Budgets at \$139
Residential Programs:			
HVAC Gas and Electric	\$19.0	\$ 19.0	\$ 19.0
New Residential Construction	\$21.0	\$ 21.0	\$ 21.0
Energy Star II	\$ 9.5	\$ 9.5	\$ 9.5
Appliance Cycling	\$ 8.0	\$ 0.0	\$ 1.0 ⁵
Home Performance with Energy Star	\$ 1.0	\$ 1.0	\$ 1.0
Refrigerator Turn-In	\$ 2.5	\$ 2.5	\$ 2.5
STAC SEER/EER Evaluation	\$ 0.17	\$ 0.17	\$ 0.17
Low-income	\$ 19.8	\$ 19.8	\$ 19.8
Sub-total residential programs	\$ 80.97	\$ 72.97	\$ 73.97
Commercial and Industrial Programs:			
New C & I Construction	\$ 3.0	\$ 3.0	\$ 3.0
Business Retrofit	\$ 20.0	\$ 20.0	\$ 20.0
School Efficiency			
Abbots	\$ 9.3	\$ 9.3	\$ 9.3
Non Abbots			\$ 3.5
Pay-for-Performance	\$ 5.0	\$ 5.0	\$ 5.0
Special Studies (including CHP and Load Management of Small Businesses) Pilots Studies for 2004 to be implemented in 2005	\$ 0.27	\$ 0.27	\$ 0.27 \$ 0.96
Financing for Public Entities	\$3.0	\$ 3.0	\$ 3.0
Urban Forest Initiative	TBD	\$ 3.0	\$ 3.0
<u>CHP Incentives</u>	TBD	\$ 0.46	\$ 5.0
Sub-total commercial and industrial programs	\$40.57	\$ 43.03	\$ 53.03
Total: Energy Efficiency	\$121.54	\$ 116.00	\$ 127.00
Total Projected 2004 EE Budget at \$124 and \$ 139 with 2001-2003 carryover	\$ 116 \$127		

⁴ The Clean Energy Program administrative cost are established at not to exceed 10% of the total budget. Program-by-Program administrative cost may vary.

⁵ This budget does not allow for growth in 2004.

Proposed Budgets for 2004 Renewable Energy Programs⁶
RE Program Budget at \$124 M
RE Program Budget at \$139 M

Programs	RE Committee Budget (000,000)	Program Budget at \$124	Program Budgets at \$139
Customer On-Site Renewable Energy	\$ 25	\$ 44.15	\$ 45.15
Renewable Energy Advanced Power Plants	\$ 15	\$ 15	\$ 16
Renewable Energy Economic Development	\$ 5	\$ 6.35	\$ 56.35
Grid Supply		\$ 2	\$ 2
Demonstration Program	\$ 2	\$ 2	\$ 2.5
Manufacturing Incentive	\$ 2	\$ 2	\$ 2
Small Business Financing	\$ 3	\$ 3	\$ 3
Public Entity Financing		\$ 1.5	\$ 3
Subtotal 2004 RE Budget	\$ 52	\$ 76	\$ 80
Carryover for future projects			
	\$ 52	\$76	\$80
Total Projected 2004 Budget	\$ 76		
With 2001-2003 carryover	\$ 80		

⁶ The Clean Energy Program administrative cost are established at not to exceed 10% of the total budget. Program-by-Program administrative costs may vary.